

Municipal Review Committee Meeting Minutes of January 23, 2006

Attendance: Matt Balling, MRC Chairman Paul Shear, MRC Member
Richard Bigler, MRC Member John Moulin, MRC Member
Lisa Bertino-Beaser, MRC Member Richard McNamara, MRC Member
Jim Callahan, Director of Community Development
Ryan Mills, MRC Member Arthur Fuerst
Councilman Scott Bylewski David Allan, Silvestri Architects
Mary Powell of Casilio Construction Management

Agenda Item #1 - Approval of Minutes

ACTION: Motion made by Matt Balling, seconded by Paul Shear to APPROVE the minutes from the December 19, 2005 meeting as written.

VOTING: Ayes: ALL **MOTION PASSED.**

Agenda Item #2 - Communications:

Matt Balling reads a letter that was sent to Supervisor Kathleen Hallock. The letter is from the representatives of the Krislyn Office Building project. It thanks all the boards in the Town of Clarence and everyone who helped with this project.

Matt Balling congratulates new members of the Municipal Review Committee and those members who have been reappointed.

Agenda Item #3 - Unfinished Business:

Agenda Item #3.a. – Stage and Schurr Subdivision

The applicant has submitted the archeological study; however the study has not yet been reviewed by the Municipal Review Committee members.

ACTION: Motion by John Moulin, seconded by Richard Bigler, to TABLE Item #3.a. pending the review of the archeological study.

VOTING: Ayes: ALL **MOTION PASSED**

Agenda Item #3.b. – Town Environmental Quality Review Local Law (TEQR)

Matt Balling spoke with Bettie Ann Hughes this morning. The next step for the Municipal Review Committee is to complete Part II and make a recommendation to the Town Board. Mr. Balling suggests accepting the Part II that was completed by the Planning and

Zoning Department, which indicates no potentially small to moderate or potentially large impacts on the environment. He also suggests a Negative Declaration be issued by the Town Board.

ACTION: Motion by Matt Balling, seconded by Lisa Bertino-Beaser, to ACCEPT the Part II as prepared by the Planning and Zoning Department and recommend a Negative Declaration on the Town Environmental Quality Review Local Law.

VOTING: Ayes: ALL

MOTION PASSED

Agenda Item #3.c. – Arthur Fuerst, 9450 Main Street Coffee Shop

David Allan of Silvestri Architects is present and representing Arthur Fuerst. Mr. Fuerst is present. Mary Powell from Casilio Construction Management is also present.

Mr. Allan provides an update on the project. He has hired Watts Engineers to perform a site specific traffic study. The recommendations are indicated in a letter from Donald Wolf, dated January 9, 2006, the letter is on file. The site drawings have been amended to reflect the recommendations in the letter.

Matt Balling refers to the letter from Donald Wolf in which it is indicated that the vehicles queuing up in the southbound lanes trying to make left hand turns on to Main Street would probably block the driveway on Goodrich Road. This is a major concern for the Municipal Review Committee. Mr. Allan advises this issue has been addressed with the Planning Board. The Planning Board asked for the curb to be pushed back as far as possible. Mr. Balling indicates that pushing the curb back may not solve the traffic problem.

Mr. Fuerst feels that a large portion of the traffic will be exiting on to Main Street traveling west. Those who need to get to the high school will need to exit on Goodrich Road.

Mr. Allan indicates that he receives comments from the Town, but no suggestions, he wonders if this means the project will never happen. He feels he has exceeded all requirements. He would like to move this project forward and have the business open by Fall 2006.

Matt Balling advises projects are moved forward when the information requested is received and reviewed. Last month a tree survey was requested for this project, what the committee received was a survey for half the property, which is unacceptable. Mr. Allan advises the survey was a result of a communication error between the companies and Bissell Stone. The tree survey is currently being amended and will be forwarded as soon as completed.

Matt Balling advises the next step is to complete a Part II for the project, however, the Municipal Review Committee does not feel they can do this with a half completed tree survey and the traffic information that they have to date.

Matt Balling advises one of the things the Municipal Review Committee needs to see is the completed tree survey because the number of trees and the amount of green space that is

being removed from the project needs to be calculated and documented before the Committee can provide the applicant with suggestions on how to correct the problem.

Regarding the traffic, it is apparent that further study is required. From the observations that the Municipal Review Committee has seen, there are ways to remedy these things. The remedy may require you to acquire more property to move the driveway further or make some additional lane restrictions; it is unknown what the requirements may be. David Allan advises the he and Arthur Fuerst have discussed this, Mr. Fuerst has purchased the land behind him, he has maximized the curb cut distance and is still being told to move it back into a parcel that he does not own. Matt Balling advises that the Municipal Review Committee does not know if the project is going to work the way the driveways are presented. If it truly is a situation were all the traffic is backing up beyond your property to the point where people can not make left hand turns out of it, then it can not be built. You can not develop something that the existing highway network can not support.

Mr. Allan advises that he has not seen notes on the Main Street version from the Department of Transportation yet. Mr. Allan asks if it is premature to say that he needs to have an additional traffic survey or should he wait to see what the comments are on the parcel. Matt Balling's personal opinion is that he would want to have a complete traffic study done, whether it is done prior to the Municipal Review Committee's recommendation to the Town Board or not. From what the Municipal Review Committee has seen so far on the project, in particular the character issues having to do with the tree canopy that is going to be removed from it, the applicant will really not have a choice in the future whether to do it prior to the Municipal Review Committee recommending an environmental impact statement or do an environmental impact statement that studies those issues. The decision is up to the applicant. However, tonight what the Municipal Review Committee is asking for is the tree survey. Mr. Allan advises this will be done.

Matt Balling advises that currently the proposal is taking down twenty-seven trees and that does not include the trees that have not been reported to the Municipal Review Committee yet, and replacing them with nine trees. This is completely unsatisfactory, given the existing aesthetic quality on the site. If twenty-seven trees are being ripped down and replaced with nine, the applicant needs to show the town that he is doing something else to replace the aesthetic quality of the site.

Mr. Allan asks if the project is "not" following the tree ordinance or is it purely preference on the Committee's part. Matt Balling advises it is not preference it is environmental impact, it is an impact on community character. Mr. Allan asks again if the project is an ordinance that has to be followed. He indicates the project meets all the greenspace and landscaping requirements. Every developing site other than a field is going to have tree removals in it, in order to make it meet other issues which are the parking ratios or the stacking that is required. Mr. Allan comments that he is trying to accommodate in every sense, he is not throwing a sea of asphalt out there. Mr. Balling says, "From what I see that's almost exactly what you are doing."

Richard McNamara would like to see all the larger trees, six inches in diameter and larger, put on the site plan, show where they are, maybe the applicant can leave some of those trees there. Maybe add a little greenspace that could save some of the bigger trees. Matt Balling agrees with this. He advises that the current plan does not keep anything mature and small trees of no significance will be replacing the mature trees.

Mr. Allan restates his question, "Do we meet the ordinance?" He has opened the books, followed the ordinances, and met the greenspace requirements. He understands that trees are being taken down to promote this development, but they are being replaced and will mature in time. Matt Balling indicates that the trees will mature in twenty-five to thirty-five years. Mr. Allan said, "Well, that's unfortunate but that's how trees grow." He is sensitive to trees also, but he also has the development sense to follow all the necessary ordinances. He does not want Mr. Fuerst to be sitting on top of something that is not going to happen, he investing time and money everyday. To hire a traffic study for several thousand dollars and still have a problem with this site would not be very good business sense.

Matt Balling advises that the Municipal Review Committee was prepared to TABLE this project for another month until the completed tree survey was received and reviewed. Then it would be moved forward, given the information that they have, with a decision as to what kind of recommendation would be made to the Town Board, either a positive or negative declaration.

Mr. Allan asks if, in the meantime, the Municipal Review Committee wants the submission of the tree survey to answer what was asked for; to super-impose that on top of the site. The response is "Yes." Mr. Allan asks what the deadline is for this information. Matt Balling advises February 12, 2006 is the deadline.

Matt Balling indicates that a Part II will not be completed at this meeting until a tree survey is submitted.

Matt Balling advises there has been correspondence from the Department of Environmental Conservation asking about waste water treatment. The information was received this evening. The first paragraph refers to the need for a SPDES permit if the waste water is greater than one thousand gallons a day. Mr. Allan advises the project does not exceed one thousand gallons. It is indicated in the file that there will be fifteen hundred gallons.

Matt Balling advises that generally the Municipal Review Committee accepts a suitable design solution to the waste water treatment. He asks what the depth of the bedrock is at the site. It is five feet to the water table, which means it is five feet to the bedrock. From what Mr. Balling observed on the site there seems to be a lot of soil to work with, so he does not think that Item number one on the Department of Environmental Conservation letter would be a major environmental concern. Paul Shear agrees and thinks item number three, the archeological consideration, will be of more concern because this may take some time and if time is a consideration perhaps it should be addressed at this time.

Matt Balling advises in the past when the Municipal Review Committee has received a letter from the Department of Environmental Conservation identifying a site to be an

archeologically sensitive area the Committee requires, at least, a page one study to be completed. This procedure consists of scooping some of the topsoil where it is checked for fragments and things of that nature. Mr. Allan advises that this parcel used to be an ESSO, which has had some abatement done to it, so all the top surface that is out there will not have any fragments in it. The back parcel needs to be considered as well.

Matt Balling asks how long ago the Wilson Farms built. It was approximately seven or eight years ago. Mr. Balling asks if they did an archeological study for that site. Jim Callahan answers, "Probably." The file will have to be checked. Lisa Bertino-Beaser asks, "They usually just do them on vacant land, don't they? Not on land that has been disturbed." Jim Callahan advises this procedure was required on the Peanut Line and that had been totally dug up for a sewer line.

Matt Balling advises the Municipal Review Committee has never ignored the Department of Environmental Conservation before on any issue, so he would not want to act contrary to what they are saying.

John Moulin indicates the back part of the property was never disturbed. The septic system may be there. Matt Balling advises that the only part of the property that he sees as not being disturbed is the scrub land in between the Wilson Farms and the project site.

Mr. Allan hopes the Committee can see where he is coming from if there is going to be a potential negative declaration posed against the project, then all this investing that Mr. Fuerst is doing, with the archeological study and what not, Mr. Allan wants to take it one step at a time. He thinks the traffic study has the most thrust right now that could not make this project happen. He thinks the focus needs to be on that, if he could step over that and agree to something then the next step can be taken to the Part I or Phase I, archeological. He is trying to keep things in order so he is not spending a couple thousand dollars on an archeological and then a negative declaration is issued.

Jim Callahan advises comments are still pending from Department of Transportation and the Erie County Highway Department.

Paul Shear voices his concern regarding the inability to turn left or go east on Main St. without exiting on Goodrich Rd. If you look at the site plan anyone who needs to go east on Main St. has to go through the facility twice. He agrees that most of the traffic, most of the time leaving the facility will go west on Main Street. Certainly you can make an exit onto Main St. much like the way they have on some of the Tim Hortons. Mr. Shear thinks that what the facility will see at peak hours is a significant number of Clarence High school students trying to get their morning coffee before they come back around and try to turn east on to Main St. He is not sure what the answer or solution is. He would appreciate the applicant taking another look at it.

Mary Powell asks if the Committee would agree that this site has more circulation than Tim Horton's, you can pull out on to Goodrich Road easily. It is stated that Goodrich Road is much busier than Thompson Road. Ms. Powell advises that much of the pedestrian traffic at Tim Horton's is due to the bank being there and people are actually parking to go into the restaurant.

There will not be people parking to go into this coffee shop. Mr. Fuerst advises there will be no food in the sense of sandwiches and he will not change his mind, he does not want to offer this type of service.

Matt Balling advises one of the other concerns discussed in the work session was the pedestrian access to the buildings. This is a very busy pedestrian area due to the nearby high school, having safe access for the pedestrians to navigate around this area without a lot of traffic congestion to contend with would be a very ideal goal to achieve. Ms. Powell asks, "You mean people walking?" Matt Balling replies, "Yes, that's what a pedestrian is." Ms. Powell says, "Now you are worried about people walking in the parking lot?" Matt Balling replies, "Yes, absolutely." Ms. Powell continues, "They are going to get hit by a car?" Matt Balling replies, "Potentially, Yes." Ms. Powell then asks, "What about crossing Main Street, I mean that's ridiculous." Matt Balling replies, "That's a dangerous intersection." Ms. Powell states, "The whole thing is dangerous, they shouldn't be leaving school." Ms. Powell adds, "Now you are worried about people walking around?" Matt Balling says, "Absolutely." Ms. Powell says, "Maybe we shouldn't have any part of driving around in the parking lot, I mean that's silly." Matt Balling advises it is not necessarily silly; there are little things that can be done on a site to accommodate pedestrians better than what has been proposed.

Matt Balling asks if this is the first draft of the site plan. David Allan replies, "No. We've been through several." Mr. Allan asks if crosswalks and striping are things that the Municipal Review Committee is looking for. Matt Balling advises Mr. Allan to look for ways that make it easier for pedestrian circulation. Mr. Allan indicates that the answers to the pedestrian issue comes easy, the thing that is taking precedence is the comment of negative declaration that he wants to supersede and finalize. He thinks the bigger obstacle is the curb cut in the back. He feels the most important thing right now is to get the board to agree on the traffic circulation. Pedestrian traffic is secondary. The car traffic is what made this project return to the Municipal Review Committee, along with the tree survey. The traffic issue needs to be resolved.

Richard Bigler indicates that the study includes a disclaimer. He reads from the study: "this site will not be a concern as long as the internal circulation pattern allows entry of vehicles to clear the entrance areas." The study is based on the fact that vehicles can get in and out.

Mr. Allan advises he could probably select random parcels that have this exact same problem, they obviously run fine. What Mr. Allan thinks is that the Municipal Committee does not want this site done because of the trees that are on it. He suggests resolving the issue in a positive and proactive sense.

Matt Balling indicates that in December 2005 it was explained to the applicant that there were community character concerns at the intersection based on the mature tree canopy that is present at the site. In order to quantify that, the Municipal Review Committee asked for a tree survey, only half a tree survey was submitted. The Committee needs to review the tree survey so they can compare the landscape proposal to what people are looking at now, so that the property can be more aesthetically appealing for everybody, regardless of whether you are sitting on the site or looking at it. Mr. Allan advises he agreed to this.

Matt Balling states the traffic situation is horrible as it is. It is a dangerous intersection, he was out there on Sunday and it was miserable. No one pays any attention to any traffic markings whatsoever, which makes him really concerned about pedestrian circulation around there. The light timing was fixed about three weeks ago by the Department of Transportation, before that it was atrocious. So a traffic study is definitely going to be required regardless of whether you change or move driveways or not. The only way this can possibly get done is if we know for a fact that the stacking on all of the approaches to that intersection is not going to be blocking your driveways. This will save the applicant problems in the future with people trying to access the site.

Matt Balling indicates the third item has to do with pedestrian safety, as discussed. If the site is going to be fully developed out with another 1,000 feet of coffee shop, which may or may not be a coffee shop in ten years, it would be nice if people would be able to walk to it in a way so they do not have to constantly deal with cars. There are ways to design this in the plan: don't make people walk through a parking lot in order to get to a building. Right now at Wilson Farms they've already diced a pathway right through the woods, its proof, there is pedestrian activity there. Mr. Fuerst says, "From the "crack" motel, that's where that's from by the way."

ACTION: Motion by Matt Balling, seconded by John Moulin, to TABLE this project pending a completed tree survey and proper evaluation of the character issues can be addressed.

VOTING: Ayes: ALL

MOTION PASSED

Agenda Item #3.d. – Landscape and Tree Conservation Local Law

At the last meeting it was recommended the Town solicit lead agency, Matt Balling is not aware of any additional comments received back from involved agencies to the Town. Jim Callahan confirms there have been no comments received.

It is Matt Balling's understanding that the concerns reflected in previous meeting minutes have been taken into consideration and some adjustments have been made. This is an environmental law meant to protect the environment of the town.

ACTION: Motion by Matt Balling, seconded by Richard McNamara, to recommend a Negative Declaration and the Planning and Zoning Department will be directed to complete Part II.

ON THE QUESTION:

Paul Shear indicates current procedure for tree removal, in the Town, is when a tree is removed it is not replaced. There is no provision for replacement except for a group of retired gentleman who go out once or twice a year and plant a few trees where trees have been taken down. He would like to see this issue addressed.

VOTING: Ayes: ALL

MOTION PASSED

Jim Callahan advises there is a recommendation from the Conservation Committee and the Landscape Committee on tree replacement and the types of hardy trees that survive. Mr. Callahan feels a provision can be put in to have a replacement program.

Matt Balling states the Town should have a tree fund to replace them. Mr. Balling would not have a problem with the Town using its resources for this type of improvement.

Matt Balling states one thing that has been lost over the years is the row of trees that farmers would keep along the rural highways. Over the years the trees have died and have not been replaced. Jim Callahan advises the trees act as a snow protector as well.

Agenda Item #4 – New Business

No new business to discuss.

Agenda Item #5 – Miscellaneous

Agenda Item #5.a. - Adequate Public Facilities Local Law/Amendments to Master Plan 2015

Matt Balling received correspondence this evening that this item is continuing to be tabled on agendas, but progress is being made. The memorandum has been reviewed, it is written as a progress report. Considering the Municipal Review Committee is not taking any environmental review action until the ordinance is finalized Matt Balling recommends tabling Item 5.a.

ACTION: Motion by Richard Bigler, seconded by Paul Shear, to **TABLE** the Adequate Public Facilities Local Law/Amendments to Master Plan 2015.

VOTING: Ayes: ALL

MOTION PASSED

Agenda Item #5.b. – Residential Home Building Cap

The Town Board scheduled a public hearing for February 8, 2006 at 7:45 p.m.

Agenda Item #5.C. – Land Use Training

Matt Balling distributes the blank answer sheets for the Land Use Training Tutorial. Mr. Balling explains that the completed answer sheet should be put in a sealed envelope and forwarded to Gerald Drinkard, Planning Board Member, Second-Vice Chairperson. Multiple tests can be put in the same envelope. Each member needs to complete five categories, it is suggested that it will be beneficial to complete all nine categories. The agreeable date is July 2006. In March 2006, the Planning Board will have a meeting to discuss the context and testing of the tutorial. The committee members are asked to notify Matt Balling as soon as they know

the five categories they will be taking. Mr. Balling will keep a record of the test scores, he will forward them to PACE and will eventually received certificates for the passing scores.

Agenda Item #6 – Establish next meeting date

Matt Balling states the next meeting date is Monday February 27, 2006.

February 1, 2006 at 8:30 a.m. Joe Latona is giving a two hour presentation on the sewer throughout Clarence and what is going to happen in Amherst. Jim Callahan advises there are subdivision plans that have been proposed and the sewers are a critical issue.

Jim Callahan advises when a standard subdivision design is proposed, the Planning Board is mandating an Open Space design as well, so the alternatives can be compared. It is up to the Town Board to mandate if the Open Space design is the preferred plan.

Matt Balling asks if, when subdivisions are on the Municipal Review Committee agenda, are the matters of a conservation design verses “not” a conservation design settled. Jim Callahan believes the Planning Board will not refer a project until they are comfortable with the design, unless the Planning Board specifies in their referral that the Municipal Review Committee should look at the alternative design.

Paul Shear asks if it is the applicant’s requirement to look at the traffic situation when submitting a proposal. If the Department of Transportation and the Towns Traffic Advisory Committee both say there is no problem, doesn’t that put the Municipal Review Committee in a difficult position to take a long hard stand on “You can’t turn left” and “You have to go around twice”? Matt Balling replies, “Difficult, but not unjustifiable.” Jim Callahan advises the Traffic Advisory Committee will not make a recommendation unless a traffic design is submitted to the committee. Mr. Callahan is trying to get the Traffic Advisory Committee to make recommendations before the project gets to that point.

Matt Balling states that without a curb cut changing on Main Street, the applicant probably does not need a highway permit. Matt Balling has downloaded every Department of Transportation policy that is currently in effect. One item stated in the driveway standards is if they find reason to believe that a driveway can not work and access to a property can not be provided to a landowner adjacent to the highway they are obligated to enter into a negotiation to purchase that property or the development rites on it.

Meeting adjourned at 8:10 p.m.

Matt Balling, Chairman